

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X
NINGBO MIZHIHE I&E CO., LTD.,	:
	:
Plaintiff,	:
-against-	<u>ORDER DENYING MOTION TO</u>
	<u>MODIFY ASSET RESTRAINT</u>
	:
DOES 1-200; DRESHOW; 4MEMORYS; DENG	:
KAI, <i>et al.</i> ,	19 Civ. 6655 (AKH)
	:
Defendants.	:
	X

ALVIN K. HELLERSTEIN, U.S.D.J.:

In this copyright infringement action, Plaintiff contends that a long list of Defendants—a list that includes Dreshow, 4Memorys, and Deng Kai—make, market, and sell products depicting unicorn images for which Plaintiff holds enforceable copyrights. Back in July and August of 2019, this Court imposed an asset restraint that, among other things, prevented the transfer or disposition of funds in Defendants’ Amazon.com, Inc. (“Amazon”) online storefronts until such time that these funds accrued to at least \$300,000. *See* ECF Nos. 16, 22. Now before me is a motion by Dreshow, 4Memorys, and Deng Kai (hereinafter, “Defendants”) to reduce the cap on frozen funds to the amount Plaintiff might reasonably obtain through this suit. *See* ECF Nos. 114, 115. The motion is denied as premature.

The motion papers reflect that discovery on Defendants’ profits from their disputed sales has not yet closed. *See* ECF No. 117, at 6 (“Defendants have not completed their production of all relevant sales information...”); *id.* at 7 (pointing out that Defendants have not produced discovery regarding, among other things, “their apparent apportionment of damages,” “international shipping costs,” “which products were sold,” or which of the Defendants actually made these sales); ECF No. 119 (acknowledging that “discovery has not closed”). Without this information, and without reaching any of the parties’ ancillary arguments, it is impossible for the

Court to determine whether the asset freeze is disproportionate to the relief sought by Plaintiff or is otherwise inequitable.

Accordingly, Defendants' motion is denied without prejudice to renewal within thirty (30) days of the close of discovery. The Clerk is hereby directed to close the open motion (ECF No. 114).

SO ORDERED.

Dated: September 3, 2020
New York, New York

/s/
ALVIN K. HELLERSTEIN
United States District Judge